DEPARTMENT OF STATE

THE LEGAL ADVISER

February 28, 1958

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MEMORANDUM

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To: O/SC - John W. Sipes

From: L - Loftus Becker

Subject: Anna Louise Strong - Passport Case

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY T. Brown DATE 2/12/85
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I have reviewed your proposed decision and findings in the case of Anna Louise Strong. I believe the findings are sufficient to support the refusal of passport facilities under Sections 51.135(b) and (c), although the court might have difficulty concluding that the findings spelled out a case of direction, domination or control by the Communist movement, at least in the recent past, within the meaning of Section 51.135(b) of the Regulations. The findings seem to make out a better case under Section 51.135(c). In addition, I have the following comments and suggestions to make:

1. The word "actually" in Section I(B) should be omitted as being redundant.

2. The last sentence of Section II(A) seems too rhetorical for a finding of fact and could be omitted, since it adds little to what has preceeded it.

3. The words in the third line of Section II(B), "thought by some to be mildly anti-Soviet", is apparently intended to qualify the word "articles" in the second line; but as the sentence now reads, it seems to say that the New York Herald Tribune was thought be some to be mildly anti-Soviet. On the fourteenth line of this section, I would suggest in order to clarify the meaning that there be added following the word "received" the words "from the publication of the articles", as I assume that that is what is meant.

4. In paragraph II(C), I would omit the words "beamed from Moscow" at the top of page 5. The word "refers" in the sixth line from the bottom on page 5 should read "referred". The words "and at a time when she had been slapped by the hand she had held for years" seems too rhetorical for findings such as these. I would suggest that they be omitted or that they be replaced by more appropriate language such as "even at a time when she was in disfavor with the Soviet regime".

5.

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5. Section IV. In the discussion of certain publications, organizations and projects which have been referred to earlier in the findings as Communist and Communist fronts, you state that certain of them have been "found" to be Communist-front organizations by the Subversive Activities Control Board or the House Committee on Un-American Activities. On the other hand, it is stated that certain other organizations have been "cited or otherwise described" by the Attorney General as "Communist organizations". I believe the word "found" is appropriate with respect to action taken by the Subversive Activities Control Board, but I wonder whether it is equally appropriate with respect to what was done by the House Committee on Un-American Activities.

It is stated that the confidential information referred to in the findings and observations relates primarily to the internal security of the United States and that to disclose publicly the sources and details of this information would be detrimental to the "national interest" by compromising investigative sources and methods and seriously interfering with the ability of this Department and the Executive Branch in general to obtain reliable information affecting the internal security of the United States. It is further added that such disclosure could have an adverse effect upon the ability of this Department to obtain and utilize information from sources abroad and interfere with its established relationships in the security and intelligence area, thereby prejudicing the conduct of foreign relations. The courts have held that the applicant must be informed to what extent the non-disclosure of confidential information is based on considerations of internal security and to what extent it is based on considerations of foreign relations. The reference here to foreign relations considerations tends to link those considerations more closely with internal security considerations than was done in the findings in the Dayton case. This would probably make little difference to the judges who constituted the majority in that case, since they construed "national interest" as meaning "internal security and foreign affairs." However, a different panel might adopt a different view.

Bowdler

So?
Justice Dept. also suggested minor changes in Sec. 10-A (1+2) which were adopted. JAW

L:L/SFP:JMKeegan:jcm:es